

12/13 (3)
FILE COPY

TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9612
Fax (978) 264-9630

Don P. Johnson
Town Manager

November 22, 2004

Acton Jazz Café
Gwenn Vivian
452 Great Road
Acton, MA 01720

Dear Ms. Vivian:

The Board of Selectmen is in receipt of a report from the Police Chief alleging a possible alcoholic beverage service violation at The Jazz Café on November 7, 2004. As you will see in attached report, an intoxicated driver was involved in a Hit and Run accident on November 7, 2004, and when questioned, indicated she had been served at your establishment prior to the accident.

The Selectmen consider this to be a serious violation of the responsibilities of a liquor license holder in the Town of Acton and have ordered a Hearing to determine what action, if any, they will take in this regard. The Hearing is scheduled for 7:45 PM on Monday December 13, 2004, in Room 204 at the Acton Town Hall. You are requested to appear before the Board at that time to show cause as to why the Selectmen should not take action with respect to your license.

With regard to the upcoming hearing, the Selectmen have specifically directed that, in addition to yourself, any individual (other than yourself) who may have been on duty and in charge at the time of the alleged November 7th violation be present and available for questioning by the Board.

Please phone Christine Joyce at (978) 264-9612 to confirm your December 13th hearing date.

Very truly yours,

Don P. Johnson
Town Manager

Cc: Police Chief

Acton Police Department

InterDepartmental Memo

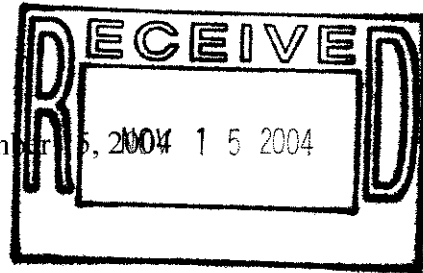
BOS
Dec
13 @ 7:45

From: Frank J. Widmayer, Chief of Police

Date: November 15, 2004 1 5 2004

To: Don Johnson, Town Manager

Subj: Liquor License Violation



Please see the attached report from the Carlisle Police Department.

I recommend that the Board of Selectmen call the management of the Acton Jazz Café in for a review of their serving policy.

A handwritten signature in cursive script, appearing to read "Frank J. Widmayer".

Frank J. Widmayer
Chief of Police

CHRISTINE :
PLEASE SCHEDULE THEM
TO APPEAR BEFORE THE BOARD
AND ADVISE FRANK OF THE DATE
& TIME .

Gernish
978-929-9557

TO: Lieutenant Thomas J. Rogers

DATE: November 8, 2004

FROM: Raymond P. Grey

SUBJ: Liquor License Violation

On 11-7-04 at 1900 hours Officer Holsinger of the Carlisle Police Department contacted the department to inquiry if we had received any reports of a hit and run motor vehicle accident in the area of the Jazz Cafe. Officer Holsinger arrested a female operator for operating under the influence of alcohol. The operator had fresh damage to the front of her vehicle. The operator advised Officer Holsinger she had been drinking at the Jazz Cafe prior to her arrest. After reading the officers report it appears the Jazz Cafe may have over served alcohol to this customer.

A copy of Officer Holsinger's report is attached to this communication.

Forwarded TB COP
11-12-04 @ 2015 HRS
(TR)

24;1H0;32m

POLICE OFFICER'S FORMAL REPORT
CARLISLE POLICE DEPT

11/08/04 09:48

PAGE: 1

Case#: 57440

***** PRELIME ** DO NOT GIVE OUT *****

6A

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rpt date: 11/07/04 22:05

reported: SUNDAY

11/07/04 18:20

ucr: 176 MV-GEN TRAFFIC VIOLATION

ibr: 1:170

location: 0 EAST ST and RUTLAND ST

follow up by: (N) ONE NEEDED

case status: OPEN

officer:

rpt status:

review officer:

sup review officer:

comp/vict notify: No

cir/involve type:

complaint: TRAFFIC STOP

reporting officer: 130 OFF HOLSINGER

assignment: C

car: U30

second officer: 105 SGT CARDONNE

sup/back-up:

*** NAMES ***

type	mast#	name/add	phone	dob	ss#
DEFENDANT	015859	VALERIE J		10/10/49	273-52-06
		BILLERICA MA 01821			

obtn: TCAR005744001

*** NARRATIVE ***

On November 7, 2005 at approximately 1820 hours, I (Officer Ronald Holsinger) was traveling east on Acton Street approaching the intersection of Westford Street (route 225), both streets are public ways in the town of Carlisle, in marked cruiser #8.

I observed a green Toyota 4runner (MA registration 7648LP) traveling in front of me with the interior light on. The vehicle turned right onto Westford Street. While traveling east on Westford Street I observed the vehicle cross over the double yellow line once and cross over the white fog line twice. After passing through the Carlisle town center the vehicle took a left hand turn onto East Street, also a public way in the town of Carlisle. The vehicle did not stay in the right hand lane while negotiating the turn and crossed into the left lane by five to six feet before the vehicle corrected it self back to the right. While the vehicle traveled northeast on East Street it crossed over the white fog line two more times.

I activated my warning lights near the intersection of Cutters Ridge Road. The vehicle did not stop for approximately a half mile later near the intersection of Rutland Road and only after I activated my air horn. The vehicle did not pull as far as possible to the right when

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*** NARRATIVE ***

stopped. (See attached pictures)

I approached the vehicle and asked the operator, later identified as Valerie [REDACTED] (10/10/49), for her license and registration. I immediately noticed a strong smell of intoxicating liquor coming from Ms. [REDACTED]. It took several minutes for Ms. [REDACTED] to find her license and registration, showing me first her business identification and her passport. I asked Ms. [REDACTED] where she was coming from and if she had been drinking tonight. In a slurred speech Ms. [REDACTED] stated she only had one Irish coffee at the Acton Jazz Cafe, where she had spent some time listening to music. When Ms. [REDACTED] spoke she did not always make sense and made statements that conflicted each other. I also observed Ms. [REDACTED] had glassy blood shot eyes.

I returned to my cruiser and had dispatch run Ms. [REDACTED] for license and warrants check. Ms. [REDACTED] license was valid and she had no warrants. I requested that Sgt. Kevin Cardonne respond to my location to assist.

I went back to the vehicle and had Ms. [REDACTED] exit to the front of her vehicle where the ground was flat and there were no obstructions present. I advised Ms. [REDACTED] again why she was stopped and asked her if she would take a field sobriety test, which she agreed to take. Ms. [REDACTED] was tasked if she takes any medications. Ms. [REDACTED] stated she takes medication for high blood pressure.

The following four field sobriety tests were given to Ms. [REDACTED]: All tests were first explained and demonstrated.

Recite the Alphabet- Ms. [REDACTED] was advised to recite the alphabet without singing A through Z. Ms. [REDACTED] began saying the alphabet in a slow slurred speech forgetting to state the letter N and then stopped at S. Ms. [REDACTED] paused and a short time later stated X Y Z. During this test I could still smell a strong odor of intoxicating liquor coming from Ms. [REDACTED].

Nine Step Heel to Toe- Ms. [REDACTED] was first instructed on this test and then I demonstrated walking nine steps in a straight line counting each step out loud, touching heel to toe each step. She was instructed on turning around and doing the same thing again. Ms. [REDACTED] was wearing high heeled shoe and had the option of taking them off. When performing the test Ms. [REDACTED] appeared unsteady on her feet and never touch heel to toe. Ms. [REDACTED] took ten steps counting out loud. On the return trip Ms. [REDACTED] count out nine steps but still never touched heel to toe and during almost all steps Ms. [REDACTED] did not place her feet one in

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*** NARRATIVE ***

front of the other but more to the side of each other.

Tip of Finger to Nose- Ms. [REDACTED] was asked to stand with her feet together and her eyes closed with her head tilted back while she touch the tip of her nose with the her tip of her index finger. I first asked Ms. [REDACTED] to touch her nose with her left index finger. It appeared Ms. [REDACTED] need to think about which was her left index finger. Ms. [REDACTED] slowly did touch her nose but did not tilt her head back. I asked Ms. [REDACTED] to touch her nose with her right index finger which she did.

Horizontal Gaze Nystagmus- Ms. [REDACTED] was asked to follow the tip of my pen with her eyes and without moving or rotating her head. Ms. [REDACTED] was giving four opportunities but each time she would follow my pen by moving her head not by moving her eyes.

At this point Ms. [REDACTED] was advised that she was under arrest for Operating and Motor Vehicle under the Influence of Intoxicating Liquor. Ms. [REDACTED] was placed into custody(handcuffs double locked) and placed in the rear of cruiser #8 where she was transported back to the station to be booked. Ferriera's towing out of Chelmsford was called to the scene to tow Ms. [REDACTED]'s vehicle. Sgt Cardonne complete a vehicle inventory in compliance with department policy. Ms. [REDACTED]'s vehicle appeared to have fresh marks of blue pant on the front left bumper. (See attached picture) Acton police were contacted to determine if they had any hit and runs near the Acton Jazz Cafe, recently, which they did not.

I transported Ms. [REDACTED] back to the station. Ms. [REDACTED] was booked(photographed and fingerprinted), read all her rights and was given the opportunity to take a breath test, which she refused. Ms. [REDACTED] was given a telephone call then placed in cell #1.

Ms. [REDACTED] was released on bail and issued citation K2979597 for the following: C.90s.24 Operating under the influence of intoxicating liquor, C.89s.4A Failure to drive within marked lanes, C.89s.4B Failure to keep right. A criminal application has been completed and will be sent to Concord District Court along with a copy of this report. A temporary license was issued to Ms. [REDACTED].

=====

CASE STATUS : OPEN () SUSPENDED () UNFOUNDED () CLOSED ()
CLOSED BY : ARREST MADE () CRIM COMP APP () ARR WARR APP ()
REF FOR PRIV COMP () REF TO OTHER AGENCY ()
RESOLVED NO FURTHER ACTION REQUIRED ()

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OTHER: DOMESTIC () CHILD ABUSE/NEGLECT () HATE CRIME ()
ALCOHOL () DRUG/NARCOTICS () GANG RELATED ()
REPORTING OFF'S SIG. DATE/TIME OIC SIGNATURE

DATE/TIME

The Carlisle Police Department
41 Lowell Street
Carlisle, MA 01741

Phone 978-369-1155 * Fax 978-369-1819 * Email dgalvin@carlislepolice.com

David T. Galvin
Chief of Police



FAX TRANSMITTAL

DATE: 11/8/04
TO: SGT. GRAY
FROM: OFF. Holsinger
SUBJECT: OUI / ACTON JAZZ CAFE

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